IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20/06/2003

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THE HONOURABLE MR. JUSTICE P.K. MISRA

WRIT PETITION.NO.19523 OF 2001
and
W.M.P.NO.28733 OF 2001

T.R. Vijayanandan .. Petitioner

-Vs-

1. The District Level Vigilance Committee -
on Community verification,
Chennai District rep. by its Chairman,
Chennai-1.

2. The State Level Scrutiny Committee-
on Community verification,
rep. by its Chairman,
Adi Dravidar & Tribal Welfare (ADW.II)
Dept., Fort St. George,
Chennai-9.

3. Tmt.P. Sivakami, I.A.S.,
Chairman, State Scrutiny Committee
and Secretary to Government,
Adi Dravidar & Tribal Welfare
(ADW.II) Dept., Fort St. George,
Chennai-9.

4. Disciplinary Authority Secretary
(INT AUDIT), Life Insurance
Corporation of India,
Southern Zonal Office, LIC Building,
Anna Salai, Chennai-2. .. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorari as stated therein.

For Petitioner : Mr.S. Doraisamy

For Respondents 1 to 3: Mrs.N.G. Kalaiselvi
Special Govt. Pleader

For Respondent-4 : Mr.P. Jayaraman
Senior Counsel for
Mr.R. Subbiah

:J U D G M E N T

The petitioner has prayed for quashing the order dated 20.9.2001 in proceedings No.29011/ADW II/2000 passed by the State Level Scrutiny Committee confirming the order of the District Level Vigilance Committee and to quash the consequential order of dismissal from service dated 4.10.2001.

2. The petitioner had obtained community certificate from the Tahsildar, Mylapore-Triplicane Taluk indicating that he belongs to Konda Reddy community which is included in the notification as Scheduled Tribe. Subsequently, a similar certificate had been issued by the Special Tahsiildar of Usilampatti. On the basis of the later certificate, the petitioner joined the services under Life Insurance Corporation of India as a Typist. The Life Insurance Corporation of India had referred the question relating to community certificate of the petitioner to the Collector of Madurai and the Collector of Chennai. On the basis of the discreet report of the Revenue Divisional Officer, Usilampatti, the Collector of Madurai by order dated 10.10.1991 had cancelled the community certificate. Against the cancellation, W.P.No.1549 6 of 1991 was filed, but the same was dismissed. Subsequently, Writ Appeal No.1282 of 1999 was filed and a stay order has been passed and writ appeal is stated to be pending. In the meantime, the State of Tamilnadu has constituted District Level Vigilance Committee and State Level Scrutiny Committee. The District Level Vigilance committee after enquiry passed an order cancelling the community certificate. At that stage, the petitioner filed W.P.No.17536 of 2000 seeking for a direction to the Life Insurance Corporation of India not to terminate the petitioner from the service. The High Court while dismissing such writ petition, observed that the petitioner may file an appeal before the State Level Scrutiny Committee against the order of the District Level Vigilance Committee. The High Court further gave a direction that for a period of six weeks, the petitioner should not be terminated from the service and he can seek for appropriate interim relief from the appellate authority. Subsequently, the petitioner filed appeal before the State Level Scrutiny Committee. It is stated that on 24.7.2001 the petitioner had appeared before the State Level Scrutiny Committee and requested for time to produce more documents and it is alleged that the Committee refused to give time and compelled the petitioner to sign a statement prepared by the Committee to the effect that no further evidence is to be adduced. On the very same day, the petitioner filed W.P.No.13799 of 2001 seeking for a direction to the State Level Scrutiny Committee not to pass final order on the basis of the statement prepared by it. The said writ petition was dismissed with an observation that it would be open to the petitioner to take appropriate steps after order of the State Level Scrutiny Committee. Thereafter, on 3.8.2001, the petitioner made a request to the State Level Scrutiny Committee to fix a fresh date for enquiry to enable the petitioner to produce more documents and adduce evidence. However, no further enquiry was held and ultimately on 20.9.2001, the appeal filed before the State Level Scrutiny Committee was rejected and a

copy of the order was handed over to the L.I.C. and on the basis of the said order, L.I.C. without initiating any further proceedings, passed an order of termination. The present writ petition has been filed challenging the order passed by the State Level Scrutiny Committee and the consequential order of dismissal passed by the Life Insurance Corporation of India.

3. So far as the order passed by the State Level Scrutiny Committee is concerned, the same is being challenged on the ground that sufficient opportunity has not been given to the petitioner and moreover the State Level Scrutiny Committee has mechanically accepted the reasonings given by the District Level Vigilance Committee. It has been further submitted that the District Level Vigilance Committee has also relied upon the report of the Tahsildar, which has been submitted behind the back of the petitioner.

4. A perusal of the record makes it clear that the petitioner wanted to adduce further evidence. It is of course true that a signed document is available indicating that the petitioner does not desire to adduce any further evidence. However, the said document had been challenged on the very same day. This would be indicative of the fact that the petitioner wanted to adduce further evidence. Moreover, the State Level Scrutiny Committee has confirmed the reasonings of the District Level Vigilance Committee which had relied upon the discreet report submitted by the Revenue Divisional Officer. In a catena of decisions it has been held by this Court that while cancelling the community certificate the discreet report submitted by the Tahsildar/ Revenue Divisional Officer behind the back of the petitioner without serving a copy on the concerned person is opposed to the principles of natural justice.

5. Apart from the above, it is apparent that the District Level Vigilance Committee and the State Level Scrutiny Committee have ignored various documents filed by the petitioner on the ground that those documents were not registered. If valuation of the transaction was not in excess of Rs.100/-, there was no necessity of registration of the document. It appears that the District Level Vigilance Committee has merely surmised that the documents have been written about 20 years back. There is no basis for such conclusion. The period during which document has been written can be ascertained by subjecting such document to scientific investigation by an expert and not through mere opinion expressed by the Committee. Whether the transactions were genuine or not can also be ascertained by referring to various official records relating to such transactions.

6. Cancellation of the community certificate vitally affects the right of a person. Similarly obtaining a false community certificate is a serious matter. Therefore, it is necessary that the question relating to validity of community certificate must receive due care and attention from the appropriate committee and such a matter should not be dealt with in a cavalier fashion. If the documents relied upon by the petitioner were genuine transactions, such documents would go long way to prove the caste as the documents in question were purported to be executed much prior to the dispute

relating to the community certificate arose.

7. For all these reasons, I am inclined to quash the order passed by the District Level Vigilance Committee as well as the State Level Scrutiny Committee and direct that the matter should be examined by the State Level Scrutiny Committee in accordance with law. Opportunity should be given to all concerned to adduce further evidence and to produce documents. If there is any doubt regarding authenticity of the documents relied upon by the petitioner, the State Level Committee may send such documents for scientific examination by an expert. The fresh enquiry should be concluded within a period of eight months from the date of communication of the order.

8. The order of termination by Life Insurance Corporation of India is based upon the conclusion reached by the State Level Scrutiny Committee. If ultimately the State Level Scrutiny Committee comes to a conclusion that the petitioner belongs to Konda Reddy community, the order of dismissal would become non-operative and it would be deemed as the petitioner is in service and he would be entitled to all consequential benefits including payment of back wages and increment for the entire period from the date of the order of dismissal. On the other hand if the State Level Scrutiny Committee comes to a conclusion that the petitioner did not belong to Konda Reddy community, the order of dismissal would stand confirmed.

9. Subject to the aforesaid observation, the writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : Yes
Internet : Yes
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To

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